

¹ The Board closed the CORE program to new private sector solar applications on December 20, 2007 and closed the CORE program to all public sector solar applications as of April 1, 2008. *In the matter of a*

The procedure for obtaining a CORE rebate begins with an initial application. If the initial application meets all requirements, the applicant will receive a CORE Rebate Confirmation and Final Application Form (rebate commitment letter). The rebate commitment letter sets forth conditions the applicant must meet in order to obtain the final rebate (e.g., completion of construction, inspection, etc.) and sets a time period within which these conditions must be met.

In 2006, Applied Information Partners (Applicant/Petitioner) submitted an application for a CORE rebate for a 140.58 kW solar energy generation system to be located in Somerset, New Jersey. On October 6, 2006, Applicant/Petitioner was issued a rebate commitment letter granting initial approval for a rebate of \$504,856.00, conditioned on the system being installed and operational by October 6, 2007. The rebate commitment letter stated:

To receive your rebate payment, a completed Rebate Confirmation and Final Application Form must be received by the Office of Clean Energy Rebate Processing Staff prior to the commitment expiration date, which is **12 Months** from the date of this letter. There will be no exceptions to this deadline. [emphasis in original]

On September 22, 2007, Applicant/Petitioner requested an extension of time to complete the project, because of problems with wind uplift of the solar panels (which Applicant/Petitioner claimed caused a dangerous condition) and difficulties working with the manufacturer and other entities. The applicable CORE Program Guidelines allow for one extension to be granted on a case-by-case basis, depending on the totality of the circumstances but focusing primarily on how much progress has been made on the project at the time of the extension request.² In accordance with the CORE Program Guidelines, an extension letter was issued on October 25, 2007, stating that the new expiration date of the rebate commitment was April 6, 2008. The letter further stated that:

If your project is not completed (inspected with final paperwork submitted) within the extended time period, the project will be automatically cancelled without further notice. Applicants must reapply under rebate levels in place at the time of resubmission if the commitment expires before the project is inspected.

The letter went on to list all of the documents required to be included in the final paperwork.

Request to Suspend the Acceptance and Processing of New Solar Applications in New Jersey's Customer On-Site Renewable Energy CORE Rebate Program, Docket No. EO07100773 (Dec. 20, 2007). The program accepted applications for wind and biomass projects through December 31, 2008 after which the program was closed to all new applicants. *In the Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2009-2012: 2009 Programs and Budgets: Compliance Filings*, Docket No. EO07030203 (Jan. 8, 2009).

² See *Customer On-Site Renewable Energy (CORE) Program Update* (Aug. 17, 2006), <http://njcleanenergy.com/files/file/COREProgramUpdate081706.pdf>. (CORE Program Guidelines)

On March 22, 2008, Applicant/Petitioner requested a second extension, for the same reasons as the first – wind uplift problems with the solar panels and problems with manufacturers. The extension was denied in accordance with the CORE Program Guidelines.³ Applicant/Petitioner appealed the denial to the Board's NJCEP Program Coordinator, who denied the appeal on May 30, 2008. The Petition under consideration herein was filed with the Board on July 2, 2008.

Discussion and Findings

The issue in this appeal is whether the Board should issue a second CORE rebate extension because of project delays caused by problems with components and/or manufacturers.⁴

Applicant/Petitioner states that the delays in completing its solar system were due to "circumstances beyond the control of the Applicant" and that therefore an extension should be granted. Applicant/Petitioner submitted a chronology of its efforts to work with various manufacturers and contractors to correct problems and obtain various components. The primary problem cited is wind uplift of the panels, which the Applicant/Petitioner claims posed serious safety risks and thus could not be ignored. The Applicant/Petitioner's chronology lists several redesigns of the system over the course of the project, and raises allegations that the manufacturer and distributor of the panels acted improperly and/or inappropriately in response to the problems with the panels.

The question of the appropriate length of CORE rebate commitments was thoroughly considered and debated among Board Staff and stakeholders during the development of the CORE program. Discussions on the issue of the appropriate CORE deadlines covered the average or typical amounts of time required for various types and sizes of renewable energy systems; the possible problems that might arise during construction and installation; and the necessity for coordination among many different entities to complete a typical CORE project, including installers, component manufacturers, inspectors and code officials, municipal officials, homeowners associations, and utilities that own the electric distribution system with which the renewable energy system must interconnect. The CORE Program Guidelines represent the acknowledged policy in favor of separate deadlines for commercial, residential, publicly funded and privately funded projects, in recognition of the different challenges attendant on each of these types of projects.⁵

³ The CORE Program Guidelines do not specifically prohibit second extensions for private projects over 10 kW. However, they do state that a customer "may apply for an extension" (emphasis added). Therefore, the Board has consistently applied a policy of granting only one extension for CORE projects.

⁴ Staff contacted Applicant/Petitioner's representative during the preparation of Staff recommendations on this case to afford Applicant/Petitioner the opportunity to add other issues to the record. The representative stated that he would e-mail Staff a written statement but, despite two e-mail reminders, did not do so.

⁵ See CORE Program Guidelines, at 13 and 14.

During the course of the CORE Program, approximately 4,000 projects have been successfully completed within the established CORE deadlines. Of these projects, approximately 358 were, like Applicant/Petitioner's project, privately funded commercial energy systems. These 358 commercial projects were completed in an average of 239 days, or about 8 months. It is very unlikely that all of these projects proceeded entirely smoothly from start to finish and never encountered problems with components or manufacturer delays. In fact, Staff and the Market Managers have had many informal conversations with CORE applicants by telephone and e-mail regarding problems of these kinds. If the CORE program deadlines were unreasonable and did not provide sufficient time to overcome problems, one would expect fewer projects to have met them, and a longer average time to completion.

There are also policy reasons not to grant multiple extensions for CORE projects. The CORE Program is one component of the New Jersey Clean Energy Program, which is designed to increase renewable energy generation capacity in New Jersey at a rapid and steady pace. The CORE deadlines help to ensure that CORE funding flows to realistic projects that can be completed within relatively short timeframes. In addition, the deadlines help to discourage the submittal of applications for speculative projects that may take years to come to fruition, if ever. For these reasons, the CORE Program allocates funding to projects that are "shovel-ready" and can contribute now to progress on meeting the Board's continually increasing renewable energy goals.

Further, granting the extension would provide Applicant/Petitioner with additional compensation that is not needed under the solar financing programs that are now in place. Since Applicant/Petitioner's rebate commitment letter was issued, the solar marketplace in New Jersey has changed significantly and the value of other incentives available for the installation of solar systems has dramatically increased. These other incentives include the market value of the Solar Renewable Energy Credits ("SRECs") produced by solar generation. As a result, Applicant/Petitioner's previously approved rebate amount now appears to be an excessive award to a single solar project which has not contributed to New Jersey's energy goals since its approval despite being provided ample time to meet its completion deadline.

Finally, even if Applicant/Petitioner's statements regarding improper or inappropriate actions on the part of manufacturers or other entities are true, the Board has already granted an extension of time to address this matter. The appropriate remedy for Applicant/Petitioner is not an additional extension of time for obtaining a CORE rebate. The Applicant/Petitioner chose these particular entities to work on its project, and the Applicant/Petitioner was the entity in control of the project as it developed. The Applicant/Petitioner is therefore the appropriate entity to address any problems that arose during the course of the project.

Based on the above discussion, Staff recommends that the Board deny Applicant/Petitioner's request for a second extension.

The Board has reviewed this matter and, in light of the foregoing, **HEREBY FINDS** that denial of a second extension of Applicant/Petitioner's rebate commitment letter is fully consistent with the Board's policy on deadlines, contained in the CORE Program Guidelines. Therefore, the Board **APPROVES** Staff's recommendation and **HEREBY DENIES** the Petition for a second extension of the time for completion of Applicant/Petitioner's project.

The effective date of this Order is as set forth below.

DATED: 12/1/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities

